

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

**LEROY BROWN**

**v.**

**LEWISGALE HOSPITAL  
ALLEGHANY, ET AL.**

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**CIVIL ACTION NO. 17-4139**

**ORDER**

This 25<sup>th</sup> day of June, 2018, it is hereby **ORDERED** that this action is **DISMISSED** without prejudice for lack of subject matter jurisdiction. Although Plaintiff asserts “Diversity” as the basis for jurisdiction, the complaint is devoid of any allegations as to the state of citizenship of the parties, which is the touchstone for diversity. Plaintiff pleads the addresses of the respective Defendants, but it is citizenship and not residency that gives rise to federal diversity jurisdiction. *McNair v. Synapse Grp. Inc.*, 672 F.3d 213, 219 n.4 (3d Cir. 2012). This dismissal is without prejudice, but counsel is cautioned that even if diversity of citizenship can be adequately pleaded, Plaintiff would nonetheless need to establish personal jurisdiction over the Defendants. *Daimler AG v. Bauman*, 134 S. Ct. 746 (2014); *Walden v. Fiore*, 134 S. Ct. 1115 (2014). If, as implied by the complaint, the defendant hospital and health care center are located in Virginia, and if the medical care that gives rise to this case was rendered in Virginia, the Court is hard-pressed to see a good faith basis for assertion of either general or specific jurisdiction. As to Defendants Jeffrey Turner and Connie Hylton, a second and independent

basis for dismissal is failure to prosecute, inasmuch as Plaintiff, having failed to accomplish service upon them, has taken no action since December 8, 2017.

/s/ Gerald Austin McHugh  
United States District Judge